

REMARKS**I. INTRODUCTION**

Claims 1, 50, 60, 67 and 68 have been amended. No new matter has been added. Thus, claims 1-15, 26-61 and 63-73 remain pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 102(a) REJECTIONS SHOULD BE WITHDRAWN

The Examiner has rejected claims 60-64 under 35 U.S.C. § 102(a) as anticipated by International Application Publication WO 93/16443 to Humble ("the Humble reference"). (See 10/04/05 Office Action, ¶ 4).

The Humble reference describes an individualized promotional programming network for use in a number of retail establishments. (See the Humble reference, Abstract). The network includes a checkout station 20 coupled to an audiovisual display apparatus 50, which displays promotional and entertaining programming to a customer at the checkout station 20. (*Id.* at p. 8). An electronic marketing profile is created for each customer based on identities of products presented at the checkout station 20 and the customer's choices of promotions and entertainment using the audiovisual display apparatus 50. (*Id.* at p. 9). The promotional/entertainment programming displayed on the audiovisual display apparatus 50 is controlled by a processor 80, which selects a program "based on at least one of the selection entered by the customer and the identity of the products..." (*Id.* at p. 10).

Claim 60 recites a method for displaying advertisements ("ads") at a point-of-sale (POS) location comprising "*dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction*" and "receiving a first ad for display during a first time frame and without regard to whether the transaction meets predetermined criteria" and "then engaging in the transaction" and "during the transaction, receiving a second ad for display during a second time frame when the transaction meets predetermined criteria" in combination with "*adjusting a duration of the first and second ads based on whether the first and second time frames have ended.*"

In contrast to claim 60, the Humble reference fails to teach or suggest dividing a transaction into time frames. Once a transaction has started, the Humble reference states, "[p]rograms are selected for display based on the customer preferences, a stored customer profile,

and the identity of the products..." (See the Humble reference, Abstract). Programs are selected as follows:

The particular program selected is based upon on one or both of the selection made by the consumer and the identity of products presented for purchase. For example, one of the selection and the identities of products (or a profile developed therefrom) can limit the selection to a subset of the available programs and the other of the selection and the identities can be used to select the particular display program from the subset.

(Id. at p. 11). Furthermore, when describing a method utilizing the network of the Humble reference, the disclosure states, "detecting at a checkout station of the retail establishment products presented by a customer for purchase" and "selecting a display program...relating to one of the customer and the products detected..." (Id. at p. 15). Thus, the Humble reference teaches that during a consumer transaction, the promotional content/programs are selected based on the customer profile or the product identity, which are independent of time. Thus, it is respectfully submitted that the Humble reference neither discloses nor suggests "dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction," as recited in claim 60.

In addition, the Humble reference fails to teach or suggest "adjusting a duration of the first and second ads based on whether the first and second time frames have ended." In fact, the Humble reference does not even disclose adjusting the length of the programs. Instead, consumers select programs of interest for viewing and can change between programs as desired. (Id. at p. 14). Thus, the duration of the programs is either fixed (as in the case of a default mode when the audiovisual display apparatus 50 is not being used by the consumer) or directly controlled by the consumer. The programs are either played in full or interrupted by the consumer. Thus, it is respectfully submitted that the Humble reference does not disclose or suggest "adjusting a duration of the first and second ads based on whether the first and second

time frames have ended," as recited in claim 60.

Accordingly, it is respectfully requested that the rejection of claim 60 be withdrawn. Because claims 61 and 63-64 depend from, and therefore include all of the limitations of claim 60, it is respectfully submitted that these claims are allowable for the reasons stated above.

III. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

The Examiner has rejected claims 1-13, 29-59, 65-66 and 68-73 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,401,074 to Sleeper ("the Sleeper reference"). (See 10/04/05 Office Action, ¶ 10).

The Sleeper reference describes an augmented point of sale (POS) system that displays, during a retail transaction, promotional information to a customer selected on the basis of the context of the transaction. (See the Sleeper reference, Abstract). The augmented POS, or promotional retailing system (PRS), consists of a new generation POS system (PC 102, display monitor 104, cash drawer component 108, printing device 110) used at a check out counter 111, and further includes an auxiliary display device 602. (Id. at col. 6, lines 1-10). As described by the Sleeper reference, a retail transaction includes various events "E." (Id. at col. 6, lines 43-46). For example, an identification of a consumer using a membership card is an event. (Id. at col. 6, lines 50-58). Other examples of events include: an end to a scan input (step 408), display of a price (step 412), adding to a list of items (step 416) and deleting from the list of items (step 422). (Id. at col. 7, lines 11-14). For each designated event, the PRS may carry out the event and display promotional material, informational messages, discounts and specials on the auxiliary display device 602. (Id. at col. 7, lines 56-67).

Claim 1 recites a method for displaying advertisements ("ads") at a point-of-sale (POS) location comprising "*dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction*" and "*determining an advertisement (ad) for display in one of the time frames*" and "*displaying the ad in the one of the time frames*" in combination with "*adjusting a duration of the ad based on whether the one of the time frames has ended.*"

The Examiner has stated that it would have been obvious to divide a transaction into multiple time frames for the advantage of providing a method of displaying ads with the

ability to increase customer response/attentiveness by displaying a relevant ad as the transaction progresses. (See 10/04/05 Office Action, ¶ 87). However, as described above, the display of information according to the Sleeper reference is contingent upon the occurrence of events. As a result, there is no prior contemplation of what type of information (e.g., promotional, informational, etc.) to display. Instead, the determination is performed if and when the events occur. In contrast, by dividing the transaction into time frames, the present invention associates certain types of advertising with various parts of the transaction. For example, a Welcome type-1 frame “may be the default frame that a customer sees on approaching a client [POS terminal].” (See Specification, p. 20, lines 20-25). Therefore, the event-driven system of the Sleeper reference is incompatible with the teachings of the present invention, which anticipate the display of ads by dividing the transaction into distinct parts. Thus, it is respectfully submitted that the Sleeper reference neither discloses nor suggests “dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction,” as recited in claim 1.

Furthermore, the Sleeper reference makes no mention of adjusting a duration of an ad. According to the Sleeper reference, a PRS messenger packages events as messages in a queue. (Id. at col. 8, lines 56-59). A PRS generator parses an XML file corresponding to the messages, creating a parse tree which triggers the running of scripts. The running of scripts causes the PRS generator to perform operations necessary to prepare one or more HTML or dHTML files describing promotional informational displays. (Id. at col. 10, line 63 - col. 11, line 29). Only when the entire parse tree is traversed are the HTML/dHTML files sent to a web server for display to the customer. (Id. at col. 11, lines 34-41). Thus, the Sleeper reference makes it clear that each event is fully evaluated before displaying promotional information associated with the event. No indication whatsoever is given that the display may be interrupted or otherwise adjusted. Thus, it is respectfully submitted that the Sleeper reference neither discloses nor suggests “adjusting a duration of the ad based on whether the one of the time frames has ended,” as recited in claim 1.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 1 for the above stated reasons. Because claims 2-13 and 29-59 depend from, and therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are allowable for the reasons stated above.

Independent claim 68 includes substantially similar limitations as claim 1, including "adjusting a duration of the ad based on whether the one of the time frames has ended." Therefore, it is respectfully submitted that claim 68 is allowable for the reasons stated above with reference to claim 1, and that the rejection of this claim should be withdrawn. Because claims 69-70 depend from, and therefore include all of the limitations of claim 68, it is respectfully submitted that these claims are allowable for the reasons stated above.

As stated above, claims 65-66 and 71-73 have been rejected under 35 U.S.C. § 103(a) as unpatentable over the Sleeper reference. (See 10/20/04 Office Action, ¶ 11).

Claim 65 recites a method for determining advertisements ("ads") for presentation to multiple consumers at respective POS locations comprising "*determining based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests*" and "*responding to both requests with the same response indicating the one ad.*"

The Examiner has stated that it would have been obvious to apply a correlation/priority filter to incoming requests to correlate similar advertising needs. (See 10/04/05 Office Action, ¶ 90). However, in order to establish a *prima facie* case of obviousness, "there must be some suggestion, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference" and "there must be a reasonable expectation of success." (See MPEP, §2143). Although the use of POS advertising at multiple terminals was known at the time of the invention of the present application, the Sleeper reference fails to disclose any motivation to operate multiple terminals together in the

manner recited in claim 65. In support of this, Applicants note that the Examiner has already provided an example (i.e., lack of matching component) of why such an arrangement may be undesirable, thereby suggesting a lack of motivation. In contrast to the Sleeper reference, the present invention states that when two or more requests are sufficiently similar, a data center may create only one build trigger instead of multiple triggers, thus decreasing data traffic and providing a benefit to system users through enhanced system performance. (See Specification, p. 36). This motivation is lacking in the Sleeper reference, which does not address the issue of data traffic.

In addition, it is unclear as to how the system described by the Sleeper reference may be modified to incorporate the teachings recited in claim 65. As described above, the Sleeper reference teaches independently evaluating each event. In order to incorporate the teachings of claim 65, the evaluation of similar events would have to be performed concurrently, which would be difficult to do given the queue structure utilized by the Sleeper reference. Thus, it is respectfully submitted that the Sleeper reference neither discloses nor suggests "determining based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests" and "responding to both requests with the same response indicating the one ad," as recited in claim 65.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 65 for the above stated reasons. Because claim 66 depends from, and therefore includes the limitations of claim 65, it is respectfully submitted that this claim is allowable for the above stated reasons and that the Examiner should withdraw the rejection of this claim.

Independent claim 71 includes substantially similar limitations as claim 65, including "*determining based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests*" and "*responding to both requests with the same response indicating a determined ad for display.*" As such, Applicants respectfully submit that claim 71 is allowable for the reasons stated above with reference to claim 65. Because claims 72-73 depend from, and therefore include all of the limitations of claim 71, it

is respectfully submitted that these claims are allowable for the reasons stated above with regard to claim 71. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of claims 71-73.

Claims 14-15 and 26-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Sleeper reference in view of U.S. Patent 6,456,981 to Dejaeger et al. ("the Dejaeger reference"). (See 10/04/05 Office Action, ¶ 63).

The Examiner has stated that the Sleeper reference shows the invention substantially as claimed, but fails to disclose compiling a database of advertising material for display at a POS system and selectively picking ads to provide the consumer. The Examiner purportedly cures the deficiencies of the Sleeper reference with the teachings of the Dejaeger reference. However, the Dejaeger reference fails to cure the above described deficiencies of the Sleeper reference. Thus, Applicants respectfully submit that because claims 14-15 and 26-28 depend from, and therefore include the limitations of claim 1, these claims are allowable for the reasons stated above with regard to claim 1. Therefore, it is respectfully requested that the Examiner withdraw the rejections of claims 14-15 and 26-28.

Claim 67 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Sleeper reference in view of the Dejaeger reference and in further view of U.S. Patent 6,615,183 to Kolls ("the Kolls reference"). (See 10/04/05 Office Action, ¶ 71).

The Examiner has stated that the Sleeper reference and the Dejaeger reference show the invention substantially as claimed, but fail to disclose "recording a representation of any response to the [POS] ad." The Examiner purportedly cures the deficiencies of the Sleeper reference with the teachings of the Kolls reference. However, independent claim 67 includes substantially the same limitations as independent claim 1, including "*dividing a transaction into time frames, a total duration of the time frames equaling a total duration of the transaction*" and "*if the ad is displayed in the one time frame, adjusting a duration of the ad based on whether the one time frame has ended.*" Therefore, in view of the reasons stated above with reference to claim 1, it is respectfully submitted that neither the Sleeper reference nor the Dejaeger reference

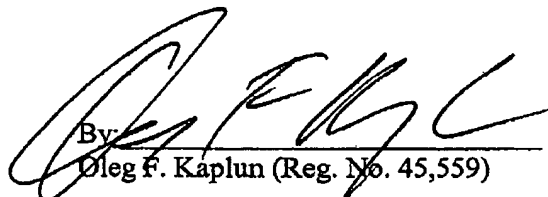
nor the Kolls reference, either alone or in combination, discloses or suggests “dividing a transaction into time frames, a total duration of the time frames equaling a total duration of the transaction” and “if the ad is displayed in the one time frame, adjusting a duration of the ad based on whether the one time frame has ended,” as recited in claim 67. Thus, Applicants respectfully request that the Examiner withdraw the rejection of claim 67.

IV. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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